

## Remarks

Applicant's representative wishes to thank the Examiner for the courtesy during telephone interviews of September 28, 2007 and October 1, 2007. During the September 28, 2007 interview, Applicant's representative and the Examiner discussed setting a date and time for a more in-depth discussion of the claims. We also discussed the art previously cited against the present application. There was no reference to the cited art in the Office Action. The Examiner stated that it was an oversight on her part in not stating that the references no longer were applicable. During the October 1, 2007 interview, Applicant's representative and the Examiner discussed amending the independent claims 1 and 24 by replacing "consisting essentially of" with "comprising" in line 1 of each claim, by inserting a salt in (B) of claim 1, by amending (C) such that the aliphatic groups are defined as "alkyl," "alkenyl," and "alkynyl," and by inserting amount ranges for components (A), (B), (C), and (D).

Claims 1, 5, 7-24, 28, and 30-46, and 48-50 remain in this application. Claims 47 and 51-54 are cancelled in this amendment. Claims 2-4, 6, 25-27, and 29 were previously cancelled. Claims 1 and 24 are amended by replacing "consisting essentially of" with "comprising." Support for this amendment can be found in claims 1 and 24, as originally filed.

Claims 1 and 24 are amended to state that (A) is utilized as a first hydrated high methoxyl pectin protein stabilizing agent and as a second hydrated high methoxyl pectin protein stabilizing agent. Support for this amendment can be found, *inter alia*, on page 6 lines 25-28. Claims 1 and 24 are amended to state that the second hydrated high methoxyl pectin protein stabilizing agent is about 93% water. Support for this amendment can be found in Example 1.

Claims 1 and 24 are amended to state that (B) is an aqueous slurry of a soybean protein material. Support for this amendment can be found, *inter alia*, on page 12 lines 26-28. Claims 1 and 24 are amended to state that (B) also contains a basic salt present in an amount sufficient so that (B) has a pH of from 7.0 to 8.0. Support for this amendment can be found, *inter alia*, on page 12 lines 19-26. Claims 1 and 24 are amended to state the aqueous slurry of a soybean protein material and basic salt is from 90-99 % by weight water. Support for this amendment can be found on page 12 lines 27 and 28.

Claims 1 and 24 are amended to state a ratio of the first hydrated high methoxyl pectin protein stabilizing agent:(B) to be from about 0.1-0.4:100. Support for this amendment can be found, *inter alia*, on page 19 lines 1-3.

Claims 1 and 24 are amended to state that within (C) that  $R^1$ ,  $R^2$ , and  $R^3$  are aliphatic groups of alkyl, alkenyl, and alkynyl that contain from about 7 up to about 23 carbon atoms. Support for this amendment can be found, *inter alia*, on page 13 lines 18-28.

Claims 1 and 24 are amended to state a ratio (C):the sum of the first hydrated high methoxyl pectin protein stabilizing agent and (B) to be from 3-15:85-97. Support for this amendment can be found, *inter alia*, on page 19 lines 3-4.

Claims 1 and 24 are amended to state a ratio of the second hydrated high methoxyl pectin protein stabilizing agent:(D) to be from 50-90:10-50. Support for this amendment can be found, *inter alia*, on page 19 lines 4-7.

Claim 24 is amended to state that the ratio of (III):(II) to be from 35-50:50-65. Support for this amendment can be found, *inter alia*, on page 19 lines 7-8.

### **Rejection Under 35 USC §112**

Claims 1, 5, 7-24, 28, and 30-54 were rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. It is stated in the Office Action that there is no suggestion in the specification to provide a composition that "consists essentially of" the specific components of claims 1 or 24. Applicant has removed the "consisting essentially of" language and replaced it with "comprising." Reconsideration and withdrawal of this ground of rejection is respectfully requested.

It is further stated that it is not seen that any and all amounts of pectin, protein, triglyceride, and flavoring material would produce the desired acid beverage. To overcome this rejection, the below changes are made.

Claims 1 and 24 are amended to state a ratio of the first hydrated high methoxyl pectin protein stabilizing agent:(B) to be from about 0.1-0.4:100.

Claims 1 and 24 are amended to state a ratio (C):the sum of the first hydrated high methoxyl pectin protein stabilizing agent and (B) to be from 3-15:85-97.

Claims 1 and 24 are amended to state a ratio of the second hydrated high methoxyl pectin protein stabilizing agent:(D) to be from 50-90:10-50

Claim 24 is amended to state that the ratio of (III):(II) to be from 35-50:50-65.

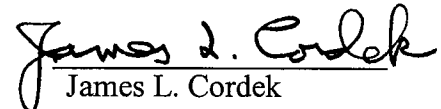
Reconsideration and withdrawal of this ground of rejection is respectfully requested.

For the foregoing reasons, it is submitted that the present claims are in condition for allowance. The foregoing remarks are believed to be a full and complete response to the outstanding office action. Therefore favorable reconsideration and allowance are respectfully requested. If for any reason the Examiner believes a telephone conference would expedite the prosecution of this application, it is respectfully requested that he call Applicant's representative at 314.659.3218.

If any additional fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-0421.

Date: December 21, 2007

Respectfully submitted,  
SOLAE, LLC

  
James L. Cordek  
Registration No. 31,807

PO Box 88940  
St. Louis, MO 63188  
314.659.3218